

2021-2022 ELECTION REVIEW



After having chaos thrust upon election administration in 2020 because of last-minute changes to election processes, many state legislatures across the country set out to right the ship. The 2022 midterm election was the first major election held following the 2020 pandemic election debacle and it put to test the strength and effectiveness of state-based election reforms around the country. Over the last two years, states like Georgia, Texas, and Florida set out to restore faith in their elections by strengthening voter ID requirements, shoring up voter roll maintenance, and banning corrupt outside influence operations like Zuckerbucks.

Unfortunately, other states, took a dramatically different direction. Instead of taking action to improve upon the issues exposed in the 2020 election, states like California and New York did the opposite by seeking to make many of the failed policies during the pandemic election permanent. As a result, they encountered major challenges in election administration. California administrators, for example, slow-walked election results—one California Congressional District had less than 50% of its votes counted a week after the election!

Despite meaningful changes to protect election integrity in the run-up to the 2022 midterms, real work remains to be done in states across the country to ensure Americans in all states can have faith in our elections.

This report, published by the House Election Integrity Caucus, provides an assessment of select election reforms in key states around the country. It also outlines some of the work of the House Election Integrity Caucus during the 117th Congress (2021-2022).



TENNEY.HOUSE.GOV/ Election-Integrity-Caucus
Contact: Sara.Cutter@Mail.House.gov

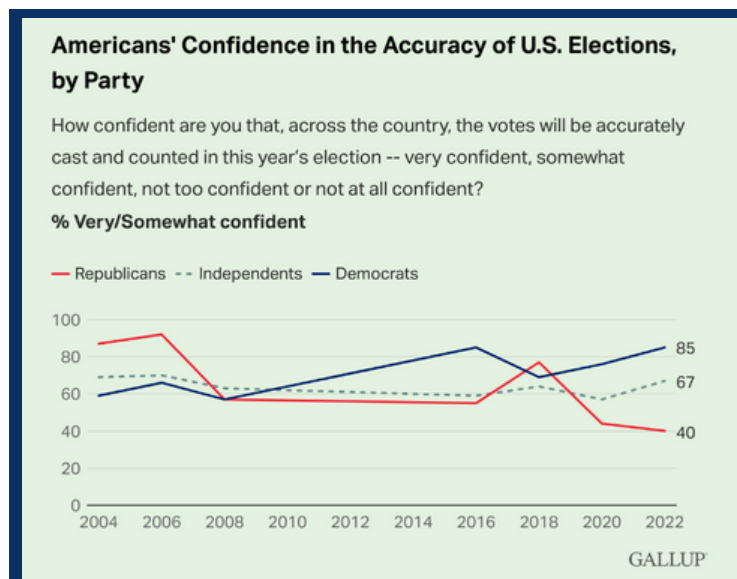
THE ELECTION INTEGRITY CAUCUS

KEY TAKEAWAYS

- Faith in America's elections is plummeting—among both Republicans and Democrats—in what amounts to a steady trend of waning confidence.
- Congresswoman Tenney and Congressman Garcia co-founded the Election Integrity Caucus to drive the conversation behind commonsense policy solutions to restore faith in our elections and empower voters to exercise the sacred right to vote.
- During the 117th Congress, the Caucus held numerous educational events for members of Congress and drafted or contributed to the development of several legislative proposals.

Founded in 2021, by co-chairs Claudia Tenney and Mike Garcia, the Election Integrity Caucus (EIC) is the only group in Congress focused on driving the conversation behind commonsense policy solutions to restore faith in our elections and empower voters to exercise the sacred right to vote. Today, the EIC has more than 60 members of Congress from states around the country and it continues to grow. During the 117th Congress, which spanned from 2021 to 2022, EIC held multiple briefings for members of Congress with state leaders and election integrity experts. This includes a briefing from New Hampshire Secretary of State Bill Gardner, a Democrat who strongly opposes unconstitutional legislation like H.R. 1, the so-called For the People Act, which would consolidate power over American elections in the hands of Washington bureaucrats. The Caucus also hosted author and award-winning journalist Mollie Hemingway, who briefed members on her new book *Rigged*, which outlines the corrupt role played in the 2020 election by Big Tech.

The EIC's work comes at a critical time—our constituents and our nation are crestfallen. Many no longer believe that their vote matters, or, in some instances, that it is even counted properly. Importantly, this is not a partisan issue. Looking to the not-so-distant past, it was Democrats—not Republicans—who were skeptical of American elections.



For example, on January 6, 2017, seven Democrat Members of the House of Representatives made objections to the results of the 2016 presidential election. Notably, Rep. Barbara Lee (D-CA) even alleged that voting machines malfunctioned in Michigan. These same Members made objections in more states than were made by Republican members of Congress in response to the 2020 presidential election![1] In another instance, following the 2016 Presidential election, Rep. Hakeem Jefferies (NY-08) tweeted, “the more we learn about 2016 election the more ILLEGITIMATE it becomes. America deserves to know whether we have a FAKE President in the Oval Office.”[2] And most recently, after the 2018 Georgia gubernatorial election, former candidate Stacey Abrams repeated her mantra that she “won”—repeating the lie well into September of 2022—despite losing by 50,000 votes.[3]

Restoring faith in our democratic process is an issue that supersedes party affiliation. The People’s lack of confidence in their ability to shape our self-governing Constitutional Republic must be remedied! That is precisely why the Election Integrity Caucus was founded.

KEY LEGISLATION DRAFTED OR SUPPORTED BY THE ELECTION INTEGRITY CAUCUS



H.R. 4290

End Zuckerberg Act

The Election Integrity Caucus drafted this legislation in response to the unprecedented amount of money Facebook Chief Executive Mark Zuckerberg funneled to election agencies in the 2020 election, none of which was accountable to the oversight of elected officials. This legislation bans Big Tech oligarchs from ever funding public elections again.



H.R. 8461

Promoting Free and Fair Elections Act

Drafted in coordination with the Election Integrity Caucus, this legislation delays the implementation of President Biden’s Executive Order 14019 (“Promoting Access to Voting”), which would unconstitutionally turn federal agencies into partisan voting operations.



H.R. 8528

American Confidence in Elections Act

Drafted in coordination with the Election Integrity Caucus, this legislation protects our elections and pushes back against misguided and unconstitutional efforts to centralize control in Washington. In addition to banning Zuckerbucks and nullifying President Biden’s Executive Order 14019, the ACE Act would also provide states with new tools to boost election integrity, restrict partisan vote harvesting, end same-day voter registration, and require photo voter identification.

[2] @RepJefferies, Twitter (Feb. 16, 2018, 2:26 PM), <https://twitter.com/repjefferies/status/964581721088897025>.

[3] Glenn Kessler, Stacey Abrams’s Rhetorical Twist on Being an Election Denier, Wash. Post (Sept. 29, 2022), <https://www.washingtonpost.com/politics/2022/09/29/stacey-abramss-rhetorical-twist-being-an-election-denier/>.

MIDTERM REVIEW

KEY TAKEAWAYS

- Amid the ongoing COVID-19 pandemic, state legislatures and governors across the country made last-minute changes to their election processes, unleashing chaos and confusion on election administration.
- Several states, including Georgia, Texas, and Florida, passed election integrity laws in response to the chaos of the 2020 pandemic election and to restore faith in our election process. Other states, however, have tried to make permanent the failed policies that led to chaos in the first place, with devastating consequences for election integrity.

In 2020, amid the COVID-19 pandemic, state legislatures across the country made a slew of last-minute changes to their election processes. These last-minute changes unleashed chaos and confusion on election administration, leading to one error after another. This had a devastating impact on the Nation's confidence in election administration, leaving the process shrouded in doubt.

In the race for Congress in New York's 22nd District in 2020, Congresswoman Tenney experienced firsthand the chaos wrought by these last-minute changes, specifically those forced by the New York state legislature and disgraced former Governor Andrew Cuomo. At one point after the election, 55 uncounted ballots were pulled out of a desk drawer in one county Board of Elections. In another county, hundreds of provisional ballots were improperly thrown out and thousands of voter registrations were never processed on time, despite having been submitted in advance of the state deadline. It took the Courts more than 100 days to resolve the issues in this race, leaving residents of the district without representation in the House of Representatives for a full month.

In response to the disastrous 2020 election, many legislatures sought to update and reform their elections. While the depth and breadth of these changes varied wildly depending on the state, the most popular subject was voter verification for mail ballots or ballot applications; and the most frequently enacted bills created or expanded early voting. Below is a review of the significant legislation passed as well as an analysis of the effects seen in the administration of elections in key states around the country. This includes an assessment of actions in states like Georgia, Texas, and Florida that have enhanced election integrity and administration as well as a review of steps states like New York and California took that undermined faith in the democratic process.

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GEORGIA

The much publicized and frequently criticized Georgia election reforms made national headlines in 2021. After the passage of Georgia's comprehensive election reform bill—Senate Bill 202—Major League Baseball (MLB) announced the 2021 All-Star Game, which was scheduled to be played in Atlanta, would be moved to “demonstrate our values as a sport.” Moreover, after initially declining to get involved in politics, Coca-Cola CEO James

Quincey reversed his stance saying, “I want to be crystal clear: the Coca-Cola Company does not support this legislation, as it makes it harder for people to vote, not easier.” And similarly, Delta CEO Ed Bastian stated, “I need to make it crystal clear that the final bill is unacceptable and does not match Delta’s values.”[4] Let’s be “crystal clear”: SB 202 did not make it harder for people to vote. It made it easier to vote and harder to cheat. And the so-called “values” of MLB, Coca-Cola, and Delta clearly do not align with the opinions and values of the American people when it comes to promoting integrity in elections.[5]

PROVISIONS OF SB 202

SB 202 made several changes to the administration of elections, including:

- Requiring an ID to submit an absentee ballot
- Printing absentee ballots on special security paper with a precinct name and ID listed
- Secured absentee ballot drop boxes
- Expanded early voting
- Reduced opportunities for voter bribery
- Reporting the number of people voting in person and how many absentee ballots were requested, received, accepted, and rejected daily
- Ending private funding of public elections, like Zuckerbucks
- Hiring more staff and adding more workers to help administer elections properly

In re Georgia Senate Bill 202

On June 25, 2021, the Department of Justice (DOJ) announced it would challenge SB 202. In its complaint, the DOJ alleged the bill was adopted with the purpose of denying or abridging the right to vote on account of race.[6] However, the federal district denied the plaintiffs’ motion for preliminary injunction ahead of the election.[7] While the case is still pending, SB202 is in full effect and the 2022 Midterm turnout numbers may be the push the court needs to grant a motion for summary judgment by the defendants—effectively killing the DOJ’s highly politicized and already flimsy case.

2022 Midterms

Despite the fearmongering, Georgia’s post-SB202 election administration was a win for voters and election integrity. First, Secretary of State Brad Raffensperger reported historic early turnout that rivaled presidential cycles. “Georgia voters exceeded expectations on Friday, shattering the 2.5M mark for ballots cast prior to Election Day” and were within striking distance of the 2.6M early votes cast in 2020.[8] Second, many in the mainstream

[4] Gabe Lacques, MLB Moving 2021 All-Star Game from Atlanta in Response to Georgia Voting Law, USA Today (Apr. 2, 2021), <https://www.usatoday.com/story/sports/mlb/2021/04/02/mlb-all-star-game-atlanta-moved-georgia-voting-law/7066061002/>; David Gelles, Delta and Coca-Cola Reverse Course on Georgia Voting Law, Stating ‘Crystal Clear’ Opposition, NY Times (Mar. 31, 2021), <https://www.nytimes.com/2021/03/31/business/delta-coca-cola-georgia-voting-law.html>.

[5] GALLUP, Eight in 10 Americans Favor Early Voting, Photo ID Laws (Oct. 14, 2022), <https://news.gallup.com/poll/403052/eight-americans-favor-early-voting-photo-laws.aspx>.

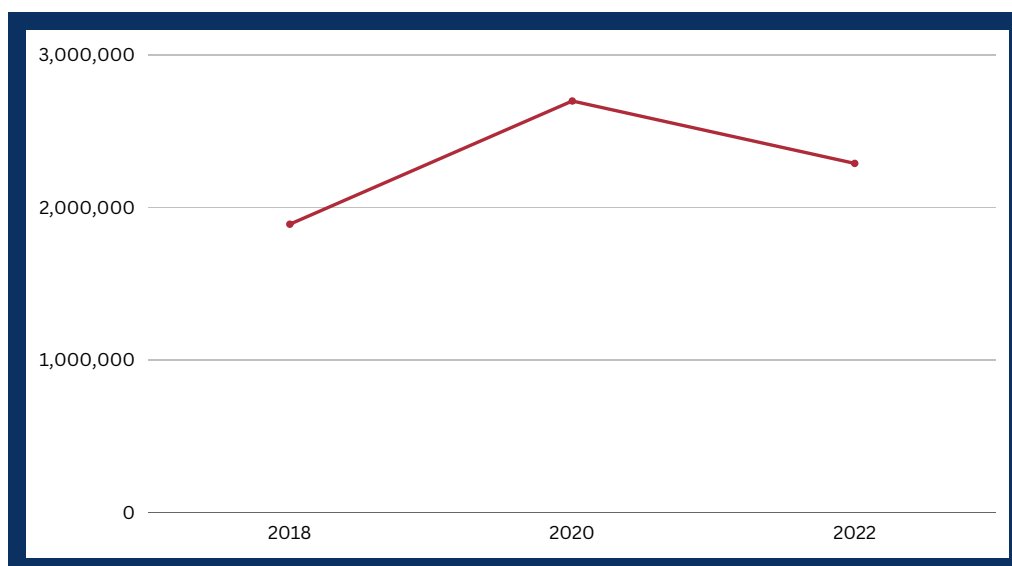
[6] Assistant Attorney General Kristen Clarke, Protecting the Right to Vote, U.S. Department of Justice (Aug. 9, 2021), <https://www.justice.gov/opa/press-release/file/1406341/download>.

[7] *In re: Georgia Senate Bill 202*, No. 1:21-CV-01229-JPB, 2022 WL 3573076 (N.D. Ga. 2022) (denying DOJ’s motion to stop Georgia from implementing the portion of SB 202 aimed at prohibiting voter coercion and bribery within 25 feet of a polling location).

[8] Press Release, Brad Raffensperger, Secretary of State, Georgia, Georgia Voters Set All-Time Midterm Early Turnout Record (Nov. 5, 2022), <https://sos.ga.gov/news/georgia-voters-set-all-time-midterm-early-turnout-record>.

media are now walking back their false and incendiary claims about Georgia SB 202, with headlines like “‘Jim Crow 2.0’ was the lie of the year” from the Boston Globe.[9] Third, without a discriminatory intent or disparate impact to point to—and there is no doubt the parties are crunching the demographic turnout numbers to try to fabricate one—it is likely that we’ll see *In re: Georgia Senate Bill 202*, succumb to a successful motion for summary judgment—at least for a portion of the challenges.

Georgia's Historic Turnout



The Texas Secretary of State (SoS) and Attorney General (AG) have been dogged in their pursuit of election integrity. First, SoS John Scott and AG Ken Paxton successfully defended private voter information in the 5th Circuit when outside groups tried to weaponize the NVRA (National Voter Registration Act of 1993).[13] They also teamed up to observe and monitor the voting processes in Harris County, Texas, after numerous reports of election irregularities.[14] Moreover, AG Paxton champions a year-round Election Integrity Division to investigate and prosecute allegations of voter fraud.[15]

[9] Jeff Jacoby, 'Jim Crow 2.0' Was the Lie Of The Year, Boston Globe (Nov. 2, 2022), <https://www.bostonglobe.com/2022/11/02/opinion/jim-crow-20-was-lie-year/>.

[10] Reid Wilson, Runoff Elections a Relic of the Democratic South, Wash. Post (June 4, 2014), <https://www.washingtonpost.com/blogs/govbeat/wp/2014/06/04/runoff-elections-a-relic-of-the-democratic-south/>; 11Alive Staff, What to Know About Georgia Runoff Elections, 11Alive (Nov. 9, 2022), <https://www.11alive.com/article/news/politics/elections/runoff-election-georgia-senate/85-374a391b-322e-40bc-a41c-916fe083efc1>.

[11] Ga. Code §§ 21-2-385(a), 568(a)(5).

[12] *Id.*

[13] Press Release, Ken Paxton, Attorney General, Texas, Federal Court Grants Attorney General Paxton and Secretary of State Scott a Major Win for Election Integrity (Oct. 6, 2022), <https://www.texasattorneygeneral.gov/news/releases/federal-court-grants-attorney-general-paxton-and-secretary-state-scott-major-win-election-integrity>.

[14] Bethany Blankley, Texas Election Integrity Task Forces Sent to Harris County to Ensure Irregularities Don't Occur, The Center Square (Oct. 26, 2022), https://www.thecentersquare.com/texas/texas-election-integrity-task-forces-sent-to-harris-county-to-ensure-irregularities-dont-occur/article_b3b02a36-5579-11ed-b78f-b72744f20b40.html.

[15] Texas Attorney General, Election Integrity, <https://www.texasattorneygeneral.gov/initiatives/election-integrity>.

PROVISIONS OF SB 1

SB 1 is the comprehensive election integrity legislation passed by the Texas legislature and signed into law by Texas Governor Greg Abbott in September 2021. SB 1 made several changes to the administration of elections, including:

- Expanded voting access for voters that need assistance
- Authorizing poll watchers to observe salient aspects of the elections process
- Allowing for ballot cure

Election Integrity Division

The Election Integrity Division has successfully prosecuted 534 election fraud offenses against 155 individuals since 2005 and has 386 active election fraud investigations. All these cases have been the result of complaints made by members of the public and election officials who report the issues to the SoS. The SoS then refers meritorious cases to the AG's office for prosecution.

2022 Midterms

The Lone Star State gets five stars for election administration! While there were no statewide problems on election day, AG Paxton and SoS Scott were right to worry about Harris County—the state's largest county. Unfortunately, Harris County did not have enough paper ballots printed, were slow to open the polls, had malfunctioning machines, and long lines at a significant number of polling locations. These issues forced Governor Abbott to call for an investigation into the County's election administration. "The allegations of election improprieties in our state's largest county may result from anything ranging from malfeasance to blatant criminal conduct." [16] The Texas Election Code includes criminal penalties for election misconduct such as illegal voting, the unsolicited distribution of mail-in ballot applications by local election officials, and the failure to distribute election supplies. [17] We commend the statewide officials for their swift response to the reported election irregularities in Harris County. Well-founded accusations of irregularities must always be transparently investigated!

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After gaining national attention in 2000 for its lack of inter-county standards and the infamous "hanging chads," Florida has been on a steady path to improve its elections since then. And all their hard work finally paid off in 2020. While the rest of the country

[16] Press Release, Greg Abbott, Governor, Texas, Governor Abbott Calls For Investigation Of Harris County Elections (Nov. 14, 2022), <https://gov.texas.gov/news/post/governor-abbott-calls-for-investigation-of-harris-county-elections>.

[17] Tex. Elec. Code §§ 64.012, 276.017, 51.010

withered from hastily enacted COVID-19 election modifications, Florida “broke the 20-year hex on election problems.”[18] “We’re now being looked at as the state that did it right and that other states should emulate,” Governor Ron DeSantis said.[19] Despite achieving so much, Florida remains vigilant in its pursuit of election integrity and transparency, including with the recent passages of SB 90 and SB 524.

PROVISIONS OF SB 90

SB 90 made several changes to the administration of elections, including:

- Strengthening voter ID for voter registration modifications and mail-in ballot applications
- Barring unsolicited mass mailing of ballots
- Prohibiting ballot harvesting by political operatives
- Banning private funding of public elections

PROVISIONS OF SB 524

SB 524 made several additional changes to the administration of elections. The key election integrity provisions were:

- Increasing penalties for violating election laws
- Improving voter roll maintenance
- Creating the Office of Election Crimes and Security in the Florida Department of State

2022 Midterms

Between Hurricanes Ian and Nicole, Florida organized and executed a safe and secure midterm election. Preliminary numbers have Florida turnout of over 7.5M or 49.3% of their voting-eligible population.[20] With only a minor deadline change for the first canvass—an extension of 2 days in the 45 counties under a state of emergency for Nicole—Florida timely delivered their election night reports inspiring observers around the country to ask states like Nevada and Arizona, “why can’t you be more like Florida?”

And Florida did it through the lens of election integrity, with a focus on competence inspiring confidence in their voters. For instance, Secretary of State Cord Byrd visited all 67 Supervisors of Elections ahead of the midterm to “see firsthand their operations and the security measures” and encouraged the public to observe the post-election audit.[21]



[18] Jeffrey Schweers, Don’t Call It ‘Flori-Duh’ — Sunshine State Breaks 20-Year Hex on Election Problems, Tallahassee Democrat (Nov. 5, 2020), <https://www.tallahassee.com/story/news/2020/11/05/florida-gets-high-grades-2020-election-shining-example-floriduh/6159443002/>.

[19] *Id.*

[20] Michael P. McDonald, 2022 November General Election Turnout Rates, US Elections Project (Nov. 9, 2022), <https://www.electproject.org/2022g>.

[21] Press Release, Cord Byrd, Secretary of State, Florida, Secretary Byrd Issues Election Readiness Update for General Election on November 8 (Nov. 4, 2022), <https://dos.myflorida.com/communications/press-releases/2022/press-release-secretary-byrd-issues-election-readiness-update-for-general-election-on-november-8/>.

NEW YORK

The principal New York election reform before the 2022 midterms was state Senate Bill 1046, known colloquially as the John R. Lewis Voting Rights Act (VRA). Hailed by the Legal Defense Fund and the Campaign Legal Center as protecting voters of color, the John R. Lewis Voting Rights Act is one of a growing number of state-level VRAs. Others include Virginia, Washington, Oregon, and California—of which, only Virginia and California had jurisdictions previously covered by section 5 of the 1965 Voting Rights Act. New York also put forth two election administration amendments for a citizen vote—Proposals 3 and 4. Proposal 3 would have allowed same-day voter registration. Proposal 4 would have allowed no-excuse absentee voting. Same-day voter registration and no-excuse absentee voting raise serious election integrity concerns, especially when implemented without strong oversight measures. Unfortunately, New York did not pair these provisions with appropriate safeguards, nor does the state have such existing provisions in place already. New York's attempt at making failed COVID-19 emergency provisions permanent failed at the ballot box as voters rejected both Proposal 3 and 4.

Provisions for SB 1046

SB 1046 mimics the 1965 Voting Rights Act by establishing a state version of VRA § 5 preclearance. This provision requires “covered jurisdictions” to “preclear” any changes to certain important election-related laws and policies before implementation. The covered jurisdictions are those “with a history of civil or voting rights violation.”[22] It is unclear which jurisdictions have historic civil or voting rights violations in New York; although the three New York counties previously covered by VRA § 5 would seem to be the most likely candidates.[23] If that is the case, this would lock New York into a 1960s/1970s policy formula that would be unresponsive to the changes in the voting districts. Further, this takes away local control and limits advances in election administration without any evidence being provided of systemic voting rights concerns.

PROVISIONS OF PROPOSAL 3

The key provision of NY Proposal 3 was:

- Eliminating the ten-day-advance voter registration requirement; effectively allowing same-day voter registration by the New York Legislature.

New York voters rejected Proposal 3, 56%-No and 44%-Yes.

PROVISIONS OF PROPOSAL 4

The key provision of NY Proposal 4 was:

- Eliminating the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability; effectively authorizing no-excuse absentee voting by the New York Legislature.

New York voters rejected Proposal 4, 55%-No and 45%-Yes.

[22] Press Release, Kathy Hochul, Governor, New York, Governor Hochul Signs Landmark John R. Lewis Voting Rights Act of New York into Law (June 20, 2022), <https://www.governor.ny.gov/news/governor-hochul-signs-landmark-john-r-lewis-voting-rights-act-new-york-law>.

[23] U.S. Dep't of Just., Jurisdictions Previously Covered by Section 5 At the Time of The Shelby County Decision (November 29, 2021), <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> (listing Bronx, Kings, and New York counties).

2022 Midterms

Among the most troubling practices in New York is the lax verification of voters requesting absentee ballots. New York requires only basic information (name, DOB, borough, and zip). With no other personally identifiable information required, there are no safeguards against third parties applying for an absentee ballot unbeknownst to the voter. And voter knowledge and consent to receive an absentee ballot are critical. Especially as we learn that Democrats who voted by mail (21%) were more likely than Republicans (12%) and Independents (10%) to engage in ballot harvesting.[24]



The most dreaded drop box horror stories have come from California. First, in 2020, a passerby reported smoke billowing out of a ballot drop box.[25] The suspected arson was started by a burning newspaper, and over 200 ballots were damaged. Unfortunately, without security camera surveillance, no one was charged with the crime. And most recently, the keys to an official ballot drop-off box were left inside the lock.[26] Although there was “no indication that the box was opened,” this was a grave lapse in procedure. These two incidents are especially concerning with the increase of drop box usage that will inevitably happen after the passage of AB 37— which created a system of automatically mailing every active registered voter a ballot.

PROVISIONS OF AB 37

In California, the practice of automatic vote-by-mail was originally a temporary change during the COVID-19 pandemic. However, AB 37 made California a permanent mail-in ballot state. This follows the trend of other western states like Oregon, Washington, Colorado, Nevada, and Utah.

2022 Midterms

One of the most concerning trends in 2022, was the number of California House races with less than 75% reported, even a week after the general election. California recently became one of a growing number of western states to provide all-mail ballot elections. Even so, the low percentage reported even a week after the election, is perplexing since other all-mail-in-ballot states seem to have no problem reporting nearly all their ballots almost immediately. California’s performance further fuels questions about Democrat-controlled jurisdictions “slow-walking” election results.

[25]CBSLA Staff, Voter finds keys left inside lock of LA County ballot drop-off box, CBS News (Nov. 2, 2022)

<https://www.cbsnews.com/losangeles/news/passersby-finds-keys-left-inside-lock-of-la-county-ballot-drop-off-box/>.

[26] Caitlin O’Kane, California Ballot Drop Box Fire Prompts Investigation for Suspected Arson, CBS News (Oct. 20, 2020)

<https://www.cbsnews.com/news/california-ballot-drop-box-fire-suspected-arson/>.

Less than 75% reported in one week



LOOKING FORWARD

There are several immediate takeaways from the 2022 midterm elections. Because voting is one of our most sacred rights as citizens of this self-governing Constitutional Republic, policymakers must focus on restoring faith and confidence in our elections. This will empower more individuals to turn out to exercise their right to vote by secret ballot, free from fear or intimidation. **In the wake of the 2022 midterms, policymakers should immediately consider:**



Ensure Election Day does not become Election Month

A typical election canvass should not take a full month to complete. States should give Boards of Elections the resources needed to properly execute an accurate canvass. Furthermore, states should implement more explicit requirements for the return of absentee ballots by Election Day and for the processing and counting of mail-in ballots before Election Day, such as the system that exists in Florida.



Require voter identification when requesting mail-in ballots

Americans should not doubt that every eligible voter can vote and vote only once. When voters request absentee ballots, states should require that they provide a form of voter ID. This best practice will ensure the critical principle of “one citizen, one vote” and help protect against corrupt partisan ballot harvesting operations.



Maintain updated and accurate voter rolls

States should take meaningful action to clean up voter rolls and make certain that only eligible citizens can exercise the right to vote. This, again, protects the principle of “one citizen, one vote” and can rebuild trust in the system.



Pass the American Confidence in Elections Act

The American Confidence in Elections Act is a comprehensive legislative package that would provide states with tools to boost election integrity, prohibit non-citizens from voting, ban Zuckerbucks, and end Biden’s Executive Order 14019 turning federal agencies into partisan get-out-the-vote operations.